

REMARKS

Upon amendment, Claims 1-2, 4-13, 15-18, 23, 24, 37, 41, 44, 48-52, 56-60, 65, 66, 70-73, 77, 79, 83-88, 90, 91, 93, and 99 are pending in this application, of which Claims 4-13, 15-18, 52, 58-60, 66, 70-72, 84-87, 90, 91, and 93 are presently withdrawn. Claims 3, 46, and 69 are cancelled herein without prejudice. Claims 1, 37, 41 and 64 have been amended to recite that Ar is an unsubstituted aryl group. Claims 99 and 100 are new and are directed to a method of preparing a sample for mass spectrometry analysis, wherein said sample is biological tissue and wherein said analyte is a small molecule.

Applicants note that the amended and new claims presented herein still read on the elected group. Support for these amendments can be found throughout the specification, in particular in the examples, and in the claims as originally filed. Support for new Claims 99 and 100 can be found specifically at paragraphs [0149] and [0163] of the published application. No new matter has been added by these amendments.

Amendment and cancellation of claims herein were done solely to expedite prosecution of the application and should not be construed as acquiescence to any rejections set forth in the pending office action or any previous Office Action. Applicants respectfully reserve the right to pursue any non-elected, cancelled or otherwise unclaimed subject matter in one or more continuation, continuation-in-part, or divisional applications.

Reconsideration and withdrawal of the objections to and the rejections of this application in view of the amendments and remarks herewith, are respectfully requested, as Applicants submit that the application is in condition for allowance.

Elections/Restrictions

Applicants respectfully thank the Examiner for acknowledging the election of Group I. Applicants note the addition of Claims 48 and 49 to withdrawn Group II

Rejections under 35 U.S.C. § 102(b)

Claims 1-3, 23, 24, 37, 41, 44, 46, 51, 56, 57, 65, 69, 73, 77, 79, 83, and 88 are rejected under 35 U.S.C. 102(b) as anticipated by Huang *et al* (*Analytical Biochemistry*, 1999, IDS) (“Huang”).

Claims 1, 41, and 50 are rejected under 35 U.S.C. 102(b) as anticipated by Leavens *et al* (*Rapid Communications in Mass Spectrometry*, 2002, IDS) (“Leavens”).

The Office Action alleges that Huang teaches a method of preparing a sample for mass spectrometry analysis comprising “reacting the analyte with a triaryl phosphonium labeling reagent (Tris(trimethoxyphenyl)phosphonium(TMPP) reagents) having a reactive group.” Indeed, Huang only teaches the use of Tris(2,4,6-trimethoxyphenyl)phosphonium reagents.

The Office Action alleges that Leavens teaches a method of preparing a sample for mass spectrometry analysis comprising “reacting the analyte with a triarylphosphonium labeling reagent (TMPP-reagents) having a reactive group.” Indeed, Leavens only teaches the use of TMPP reagents.

As amended, Claims 1, 41, and 65, from which all other claims depend, have been amended to recite that the triarylphosphonium labeling reagent having a reactive group has ***unsubstituted aryl groups*** (as in, for example, claim 37). As both Huang and Leavens are limited to the use of Tris(2,4,6-trimethoxyphenyl)phosphonium (TMPP) reagents, *i.e.* ***triarylphosphonium with substituted aryl groups***, Applicants respectfully assert that neither Huang nor Leavens can anticipate the instant invention.

Furthermore, with regard to new Claims 99 and 100, Applicants note that neither Huang nor Leavens discloses the analysis of an analyte obtained from a biological tissue sample nor do they disclose the analysis of a small molecule obtained from a biological tissue sample. As such, neither Huang nor Leavens can anticipate the invention of new Claims 99 or 100.

Applicants respectfully request that the rejections of the claims under 35 U.S.C. § 102(b) be withdrawn.

Rejections under 35 U.S.C. § 103(a)

Claim 88 is rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Huang. The Examiner states that “while Huang does not specifically teach that the sample is a biological tissue, it is well known that proteins can be obtained from biological tissue.”

Claim 88 does not relate to the use of a protein from a biological tissue as a sample but instead to the use of a biological tissue as the sample itself. Although Applicants agree that proteins can often be obtained from a biological tissue, Applicants respectfully disagree that obtaining a protein from a biological tissue as a sample for mass spectrometry analysis and using the biological tissue itself as a sample for mass spectrometry analysis would be seen as obvious variations.

Indeed, a biological tissue may comprise other types of molecules (small molecules, non-proteinaceous compounds) which can be analyzed by Mass Spectrometry and which may be of importance to one skilled in the art. As such, Applicants respectfully contend that one of ordinary skill in the art, upon reading of the use of proteins as a sample in Huang would have had no motivation and no reasonable expectation of success in using a biological tissue as a sample for Mass Spectrometry.

Applicants respectfully request that the rejections of the claims under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

In view of the remarks made herein, Applicants submit that the application is in condition for allowance. Accordingly, Applicants respectfully request entry of the amendments and remarks presented herein, favorable reconsideration of the application and prompt issuance of a Notice of Allowance.. If a telephone conference with Applicants' representative would be helpful in expediting prosecution of the application, Applicants invite the Examiner to contact the undersigned at the telephone number indicated below.

Applicants believe that no additional fees are required in connection with this paper. Nevertheless, Applicants authorize the Director to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to Deposit Account No. 04-1105, under Order No. 64254(49991).

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Respectfully submitted,

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